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Woods v. Sanders Appellant's Reply Brief Dckt. 37483

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Susan Anne Sanders Pollak, Appellant in Pro Se, In Persona Pauperus

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IN THE SUPREME COURT OF THE STATE OF IDAHO

Susan Anne Sanders Pollak,) Supreme Court Case No. 37483-2010

Appellant,)

v.) APPELLANT'S REPLY BRIEF,

Michael Allen Woods,)

Respondent.)

_____)

Appeal from the District Court of the Fifth Judicial District of the State of Idaho

In and for the County of Gooding

Magistrate Judge, Casey U. Robinson

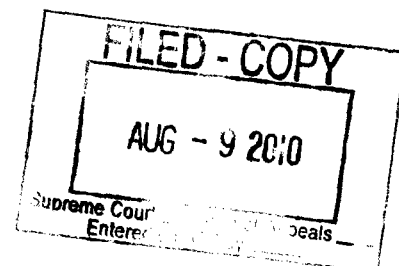


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STATEMENT OF THE CASE

a. Nature of the Case

This case comes before this Honorable Supreme court based upon multiple illegal taking of both legal and physical custody of the minor child from his Mother, (appellant) , in full Constitutional violation of the State of Idaho, and the U.S. Constitution, and the fact that a judge properly dismissed for bias, prejudice, sadistic abuse of judicial power by punitive acts continuously against this appellant, illegally officiated and adjudicated this illegal custody modification decision that is up before this honored Court, when he had no right to hear the case at all.

I.R.C.P RULE 42 (b) (2) Motion that this appellant filed in 2008 and this judge “voluntarily dismissed himself”. In addition, this Honored Court’s Justices have unanimously agreed that there are “cognitive issues of major constitutional law” that are properly raised by This Appellant before this Honored Court, and agreed by all five Honored Justices to hear this matter. Due to this fact, Respondent’s false allegations that this Appellant’s appeal to this Honored Court is frivolous and without any merit, is completely false. This magistrate judge had been dismissed by Appellant back in 2008 (R-Vol 1, page 75,). This judge gets back on the bench on or about February 4, 2009, when the Respondent and his attorney David Heida initiated this new legally groundless litigation for another “ Modification of custody” to seek to wrongfully and without merit, write this Appellant Mother completely out of her minor son’s life. This is an illegal goal, not supported by any relevant evidence, raised by the Respondent. This “dismissed for Cause” judge refused to step down even though this Appellant put in her

pleadings such as her 'pre-trial brief and Affidavit" that this judge is disqualified for cause and should immediately recues himself, which he refused to do (R. Vol. 1 Page f dated 2-1-2010 and 2-3-2120. And page 55). In fact when this matter was initially being appealed to the Idaho State Supreme Court, this Magistrate judge stated that he " forgot about being dismissed for cause back in 2008, even though just about every document this appellant has filed in every State and Federal court, states that this judge was dismissed for cause .I.R.C.P Rule 40 (b)(2)

This Appellant's Reply Brief is to inform this Honored Court "that the Respondent has failed to address every "Cognitive Constitutional Issue "that this Appellant has stated in her brief, and is the very grounds why this Honored Court has unanimously decided to hear this matter, even prior to having received any pleadings from the Respondent. In fully not addressing (in fact intentionally ignoring) the specific issues that the Appellant has raised and alleged, including all the constitutional issues, but also the fact that the Respondent is a " Habitual Domestic Violence Abuser" towards the Appellant and the minor child, they have made a tacit admission to the truth of these matters, not to mention Respondent's drug use, and active possession and selling of drugs, and fully keeping the location and physical residence of Appellant's minor son fully hidden, even though the Respondent and his attorney know that the Respondent has been at a different location in Idaho on or before February 1, 2009. Every pleading and certificate of service, has an old and false physical residential address of the Respondent, and Respondent's attorney, David Heida knows about it, for I told him in my evidence that his client has funds to pay for his own attorney, since he was buying a house in Hagerman, Idaho on or around January of 2009 at said time the Respondent initiated this "Motion for Modification of Custody." All of

this evidence and proof was presented in Appellant's Pre-trial motion, brief, and affidavit (R, vol.1, page f, line 10 dated 2-3-2010) showing that Appellant had properly filed her "Pretrial Memorandum". The Respondents allege in their brief, (Brief of the Respondent, page 1, line 8) that, " Appellant seeks to re-litigate the underlying custody determination before the Idaho State Supreme court and introduce ancillary documents and issues before this Honorable Court that were not properly raised below or part of this Court's record." This is so far from the truth that it constitutes "perjury" by Respondent's attorney, David Heida. This attorney had lied and continues to lie about the Fact that his client is a "habitual domestic violence abuser" which every bit of evidence and proof was rightfully submitted to the trial court, and illegally and without cause stricken in full. This was accomplished by an illegal and conspiracy motion by David Heida and the judge that was dismissed for cause, and should never have been on the bench in this matter. This evidence is actual witness testimony to the truth of the matter (legal relevancy) that the Respondent has been seen multiple times physically beating the Appellant, and has witnessed the altercations, and made sworn written documented testimony under oath, and notarized of these facts. In addition there was self-authenticating admissions by the Respondent on his "MY SPACE" computer internet account that he has bought a house in Hagerman, Idaho, on or around February 4, 2009 at the same time he is pleading "poverty" to his attorney that he just retained, and that attorney (David Heida) is seeking attorney fees from this Appellant in his initial Motion for Modification of Custody that he filed on February, 4, 2009 (R. vol. , 1, page 38 and 39) This is the exact same witness documentation to the "habitual domestic violence" against this Appellant that is currently in the hands of the Honorable Idaho

State Supreme Court. In addition on Respondent's "MY SPACE" internet account, he admits being in possession of \$1,000 of meth. Drugs, and also telling people that the Appellant is a worthless mom and only good as an "egg donor", and that he is going to take Appellant's minor son from her. It is self authenticating admissions (an exception to the hearsay rule) for it only has his specific email address and password for his MY SPACE webpage, and has his colored photo on top of almost each and every page. He (Respondent) is the only person who can write on his "My Space" web pages. Every bit of this evidence was wrongfully and illegally stricken from the Appellants "Pre Trial brief and affidavit" along with my entire pre-trial brief, affidavit, motion, evidence, and motion and affidavit for a telephone conference by appellant so that I need not make a 1500 mile trip for a short procedural hearing. Everything was stricken and my evidence was destroyed, since it does not appear in the Gooding County Clerk's "CLERK'S RECORD ON APPEAL". I KNOW THAT IT IS ILLEGAL FOR A CLERK OR PERSON HAVING LEGAL CUSTODY OVER Court records, to make written documents and evidence disappear from the record. Also, my entire "Requests for Admissions" and First set of Interrogatories on the Respondent were fully conveniently stricken by the Respondent's attorney, David Heida, and the dismissed-for-cause-judge, that has a personal vendetta and hatred for me (Appellant). The Respondent's attorney, David Heida, has never met or seen me, so his personal attacks on my Person and full legal ability to always be my son's mother are groundless.

SECTION 4634 of the IDAHO Code, Defines PERJURY as: Perjury Defined-every person who Having taken an oath that he will testify, declare, depose, or certify truly before any competent tribunal, officer, person, in any of the cases in which such an oath may by law be administered, willfully and contrary to such oath states as true any material matter which he knows to be false, is guilty of perjury.

Respondent's attorney fully knows of his client's "habitual domestic violence abuse" and so does this dismissed for cause judge (Gooding County Magistrate Judge Casey U. Robinson), and both conspired and continue to conspire to cover up, destroy evidence of, and keep this EXTREMELY MAJOR RELEVANT EVIDENCE from THE Honorable Idaho State Supreme Court, that has adjudicated that under Idaho State Law, a "habitual; Domestic Violence Abuser" CAN NOT have Legal and Physical Custody in the State of Idaho of Appellant's minor child. THIS IS THE VERY ISSUE UP BEFORE THIS HONORABLE COURT THAT THE RESPONDENT AND THE RESPONDENT'S ATTORNEY, AND THE GOODING COUNTY MAGISTRATE COURT is seeking with all their might to keep the TRUTH OF THIS MATTER FROM THIS HONORABLE COURT. Gooding County Courts in conjunction with Jerome and Twin Falls, County H & W Departments have been taking legal and physical custody away from mothers that did nothing wrong and broke no laws, and granting said custody to the "Habitual Domestic Violent Abusing" fathers, since before 2006, and I know personally of many women that were at the Magic Valley Women's Crisis Center, in Twin Falls, Idaho that have experienced this personally; some of which would gladly testify to said facts before this Honored Court. One of these mothers lost full legal custody of her child because she had to work, to support herself and her child, and while she was working, her child "got one too many colds while the child was in day care" so the mother could work. She lost custody of her child because the child "got a cold". This is the absolute truth, and this mother would testify before this Court to said facts.

The act of keeping this TRUTH OF RESPONDENT'S "HABITUAL DOMESTIC VIOLENCE ABUSE" concealed as evidence, IS A FULL CONSPIRACY ON THE PART OF THE RESPONDENT, HIS

ATTORNEY, AND THE GOODING MAGISTRATE COURT TO HIDE THE TRUTH. The legal profession does not hold all the cards in bringing forth the "truth" to a court of law. This Appellant in Pro Se has the same duty as any Idaho licensed practicing attorney to only bring forth the truth to court; and this truth of the Respondent's Habitual domestic violence abuse" is being purposefully hidden by the Respondent, his attorney, and the lower magistrate court. Judge Casey U. Robinson would not ever address the issue of Domestic violence by the Respondent on the person of the Appellant in the entire time-span between 2006 and his current illegal judgment he made while illegally sitting on the bench in this matter, on March 4, 2010.

By condoning the "Habitual Domestic Violence Abuse" of the Respondent, they have refused the legal Pleadings of the Appellant, and are further evidence of conspiracy to keep the truth out of the courtroom. "Habitual domestic violence abuse", is not discretionary for a court to ignore and subterfuge. Idaho State law has to be held applicable and adjudicated where it is presented it court. Respondent in his brief (Respondent's brief, Page 4 Standard of Review, lines 1-3) state that the....

"Court acted within the outer limits of its discretion and consistently with the LEGAL STANDARDS APPLICABLE to the available choices; and (3) reached its decision through an exercise of reason. Id. An abuse of discretion occurs when the evidence is insufficient to support a magistrate's conclusion that the interests and welfare of the children would be best served by a particular custody award or modification".

This court for starters had a judge that had no legal right to be on the bench for he had been dismiss for cause by the Appellant for extreme bias and prejudice that has been exponential and punitive in a criminal law sense, when at all times the proceedings were of a strict family law "civil proceeding" nature. This is fully an abuse of judicial standards of law. Secondly, by

avoiding the state law of "Habitual domestic violence abuse", by the Respondent his attorney, and the Court, this lower trial court is not using the "legal Standards" as required under Idaho law., and thus did not make its decision "within the outer limits of its discretion with the legal standards applicable to the available choices" Dante v. Dante, 146 Idaho 929,934, 204 P, 3d.1140, 1145 (2009).

The entire list of Case LAW Citations that Attorney David Heida cites in his Respondent brief are inapplicable to prove anything that Respondent alleges, for TWO REASONS, This case law has judicial notice behind it, that there is a competent judge as the Trier of fact, and two, that all parties have had the chance to admit all RELEVANT evidence into the record for adjudication.

In the matter up before this Honored Supreme court, the lower court trial judge was fully dismissed by the Appellant and had no legal authority to adjudicate any issues of custody, visitation or protective order regarding the stated parties and this minor child. The second reason is that all of the relevant evidence of this Appellant was illegally stricken and withheld from judicial review and adjudication. BY LAW, AS THE BIOLOGICAL MOTHER OF MY ONLY MINOR SON, I HAVE A PROTECTED CONSTITUTIONAL RIGHT TO RAISE AND NURTURE MY SON, AND NO RESPONDENT, HIS ATTORNEY, OR COURT IS GOING TO STATE OTHERWISE. I never did anything wrong, broke any law, or was held to answer for any child abuse, neglect, endangerment , or abandonment by this State; in said absence of this, I have full legal rights to my minor son. I am asking this Honored Court to return him to me, before this September, 1, 2010, which is his fifth birthday. Illegal acts of the Gooding County Magistrate Court, and

governmental agencies (H & W Departments), have kept my son from me for over two years now.

Please put your Honored Selves in my position for a moment. Would you physically show up to an illegal Pre-trial hearing where the judge has been dismissed for cause, for being sadistically abusive toward your person for over two years, knowingly gets back on the bench, has stricken all your evidence, and discovery, stated to you in person in his court that you have no rights in his court, fully refused to address and rule on a proper motion to allow this appellant to carry on the "pre trial Meeting" via telephone verses having to travel 1500 miles for a 20 minute hearing, threatened me that my person is not safe if I enter the Gooding County, Idaho Jurisdiction. These threats are real, and my husband was illegally arrested and jailed for no cause, for he had not done a thing, simply standing with me talking to me, when I picked up my son for visitation in 2008. Ex Sheriff Aja from Gooding County told us that we need to be careful naming names of corrupt officials, for he has witnessed in his time of office several individuals found in a field with their arms tied behind their backs with barbed-wire, and shot in the back of their heads. There has been four (4) so called accidental hangings of persons detained in the Gooding County Jail, under the current sheriff of this County, that supposedly hung themselves with the telephone cords, one of the deceased being the sheriff's own sister-in-law, and another one a person arrested for suspicion of DUI in Hagerman, Idaho. In addition I have knowledge that the former prosecuting attorney of Gooding County (of which the Respondent's attorney is in the same law office), has been seen by witnesses that have been forced to leave Gooding county, for they saw this DA enter the jury room of a fully sequestered

jury in the Gooding County courthouse. This same former DA asked the former police chief of Hagerman, Idaho to lie on the stand, (which this man had the strength and morals to refuse to do), and ended up pre-maturely retiring from his position as Police chief, and runs his own locksmith shop in the County now. There has been identity theft, illegally placing children with persons not their parents, land theft, false felony charges, illegal attorney fees liens placed on land (real property) resulting in forfeiture of title to said properties. The list goes on and on, and I have witnesses that want to come forward and testify in person to this Honored Court on September, 27, 2010 (date set for oral arguments). On top of this, we have knowledge from the FBI agent stationed in Twin Falls, Idaho, up until 2007, that Gooding County is the most corrupt County in the State of Idaho. WILL THIS HONORED COURT ADDRESS MY PERSONAL SAFTY IN EVER SETTING FOOT INTO THE STATE OF IDAHO? I HAVE STATED THIS FACT THAT I PERSONALLY FEAR FOR MY LIVE IN ENTERING THIS STATE BUT THE HONORED IDAHO STATE SUPREM COURT HAS NOT ACTED TO ADRESS THE ISSUE OF MY SAFETY, AND THAT OF MY HUSBAND?

The issue of whether the Respondent is in fact a “habitual Domestic Violence Abuser” pursuant to Idaho State Law and Code, and Proven by the Appellant and her testimony and evidence, is again fully ignored by the Respondent and his attorney, and hidden by the Gooding County magistrate Court. They refuse to address the issue of Habitual domestic Violence, which is why this Appellant’s entire “ PRE TRIAL MOTION AND AFFIDAVIT” PROVING THIS ONGOING HABITUAL DOMESTIC VIOLENCE ABUSE, BY THE PROPER STANDARDS OF PROOF WAS FULLY,

illegally, AND EFFICIENTLY “STRICKEN BY THE REQUEST OF RESPONDENT’S Attorney (David Heida), and additionally by the dismissed for cause judge, Casey U. Robinson, who has had a personal vendetta against this Appellant dating back to the beginning of the year 2006. In 2006, there was two simultaneous issues up before judge Casey U. Robinson by these parties, the first was an issue of Custody that the Respondent initiated(R. Vol.1, Page 1), and the second was the criminal issue of the Respondent domestically battering the Appellant, to the point where MS. Gina, the Gooding County Sheriff’s Victim Coordinator , had to take this Appellant over to the Magic Valley Crisis Center, in Twin Falls, Idaho, due to the stated physical abuse done by the Respondent to the Appellant. The Appellant had filed charges against the Respondent, and he was arrested and being charged for domestic violence, drug possession, and cruelty to animals. And guess what, Judge Casey U. Robinson granted 50 % joint legal and physical custody to the Respondent even before he looked into the matter of criminal battery on this Appellant by the Respondent. That is the extent to which Gooding County Magistrate Court and specifically this dismissed- for –cause- judge seeks to uphold the law of the State, and protect women from illegal and deadly battery. This Appellant was bullied to drop the charges by the Respondent, the Respondent’s mother and father, and the fact that this judge made the Appellant be with her child in the full presence of this sick Respondent and his parents, who did nothing but put down and belittle Appellant at every chance they had; and it was continuous. Again, what Idaho State Law is upheld by this Magistrate Court and specifically this judge in making the victim of habitual domestic violence be in the full physical presence of their abuser? This abuse had been going on since 2002 when the Appellant and Respondent

first met in Arizona, and the Appellant could not get away from this highly abusive man and his continuous victimization and physical abuse by the hands and deeds of the Respondent.

Appellant must make a timely statement at this juncture about LEGAL RELEVANCY. The Respondent alleges in his Ex Parte motion for Temporary custody dated February 4, 2009, that he seeks full custody he alleges that the Appellant is a “danger to the Minor “child, (R, Vol 1, P.43, and again in his attached affidavit to the initial motion for “modification filed at the same time, stating that the Appellant is an “unfit Mother” At NO TIME does the Respondent and his attorney ever prove any aspect of this to be true or even relevant. The Respondents “Motion for Custody Modification, Dated February 4, 2009, states that this matter is” based upon a material and permanent changed circumstances” (Respondent’s brief, page 1, line 6), which is a complete false statement, for the Appellant is the only biological mother to her only minor child, and always remains so, whether she is fighting for custody rights in the Gooding County magistrate Court, or the U.S. Federal District Court in Boise, Idaho (which she was, and in addition, the U.S. Federal Court of Appeals, 9th Circuit) San Francisco, which this Appellant was doing. At NO TIME did this Appellant ever relinquish her legal and Constitutional rights to her minor son and at ALL TIMES, this issue was up before either an Idaho State or U.S. Federal Court, to this very day, on her legal right to custody of her son. Not one day since March of 2008 was this matter not before a State or Federal Court. It is a conspiracy to subvert, erode the legal relationship between mother and son, to enhance the Respondent, in ways that will be addressed by this Appellant.

It is the Appellant who has been traumatized, beaten, battered, raped, imprisoned, tortured, tormented for six consecutive years by the Respondent, and part of this physical abuse and torment has been inflicted by the Respondent on the person of the minor child of Appellant. These acts have been personally witnessed by neighbors of the Appellant at the time and place of these beatings and domestic violence by the Respondent against the Appellant, and this signed under perjury by said witness is notarized evidence is in the hands of the Idaho State Supreme Court.

The Gooding County Magistrate Court, with the dismissed judge, acting in concert with Respondent's attorney, David Heida, had every bit and shred of this evidence stricken, along with Appellant's entire Pre-Trial Brief, Memorandum, Affidavit, her "requests for Admission, and her set of Interrogatories properly served on the Respondent and his attorney, David Heida. In addition, Appellant made a proper motion and affidavit to handle the Pre-trial Hearing via telephone conference (R, page f, line 10 dated 2-3-2010 Pretrial Memorandum Motion Request for Telephone Communication for this Pre-Trial Hearing by this Appellant was fully ignored by this dismissed judge sitting on the bench in Gooding Magistrate Court.

Previously in 2008 while simply trying to carry out court ordered visitation, the Appellant and her husband found themselves the victims of the Respondent and the corrupt Hagerman, Idaho Police department, by the Respondent having made false statements to the police resulting in Appellants husband being thrown into the Gooding County jail for no reason for about six hours, the complete destruction of that day's Appellant's legal visitation being destroyed, and the false collection of \$75.00 dollars in bail for no crime of any sort committed. This Honored court

needs to take into account that Appellant's only minor child had been illegally taken from her over twice since 2008, (without the least due process showing of the slightest wrong-doing by abuse, neglect, abandonment or endangerment to said child by the Appellant.

Appellant mother is pleading with this Honored Court to not have to wait until September, 27, 2010, or another day, to have her child taken away from the dangerous " habitual domestic violence abusing " respondent, and put in the full custody of his Appellant mother. School starts in September, and I have a lot of catch-up work to do to even make sure he is ready to start school, and knows his basic skills, allowing him to be a part of his class and peers, and not picked on or humiliated for being behind in his skills. I, as his mother have an absolute right to raise and nurture and monitor, participate in the full academic, social, developmental, and all aspects of the social growth of my biological son.

Respondent's Brief (Page 1, line 5-6) states that I was properly served with notice of all proceedings, which is absolutely false. I was properly served with Respondent's summons and Complaint (Motion for Modification of Custody) back in February 4, 2009, and a notice that the Respondent was seeking temporary custody, but no hearing date was calendared for said hearing. After that, the Respondent and his attorney filed many PROHIBITIVE MOTIONS against me, when I was not even residing in the State of Idaho, because I was handling a Federal Diversity cause of action that required me to be out of state to have full diversity between all plaintiffs and all defendants. I was NEVERS GIVEN WRITTEN NOTICE, OR ANY NOTICE AT ALL OF ANY OF THESE ACTIONS BY THE RESPONDENT, after the initial proper service by the Jefferson County, Colorado sheriff's Department. Appellant asks the Idaho State Supreme Court to please

take a look at the motive of the Respondent and his attorney in seeking an "Immediate Custody Order and Prohibitive Order (IRCP 65(g)), and Ex-Parte Motion for Temporary Custody, and a Temporary Restraining Order, Order To Show Cause on February 5, 2009 (R. Vol1, page d, bottom of the page with filing dates of 2-4-2009 and 2-5-2009. These harsh legal procedures initiated by the Respondent's attorney **WERE NEVER SERVED UPON THIS APPELLANT**, even though the Gooding County Court Record Shows that notice was sent and rubber stamped by the Court Clerk. I did not have notice of these matters until June or July of 2009, when I asked the Broomfield, Colorado Police Department to help me contact my child by telephone, and see if he is OK. They spoke to the Respondent who notified them of these Orders, and the Hagerman, Idaho Police FAXED these Orders to the Broomfield police, who gave them to me. That was the first time I had any knowledge of them. This is Common Practice of Gooding County; and SHOULD BE OF CONCERN, SINCE THE APPELLANT WAS NOT IN THE STATE OF IDAHO AT THE TIME, BUT COLORADO, AND THE COURT AT ALL TIMES HAD MY PROPER MAILING ADDRESS. The next time I heard from the Respondent's attorney was over nine (9) months later, for this matter had gone without any activity by the respondent and his attorney.

IRREFUTABLE PROOF AND EVIDENCE THAT THE ATTORNEY FOR THE RESPONDENT AND THE GOODING COUNTY COURT HAVE TAMPERED WITH OFFICIAL COURT RECORDS/FILE, AND CREATED FALSE DOCUMENTS LEADING TO THE ILLEGAL OUTCOME OF THE Gooding County Modification of Custody cause of action that Respondent filed February 4, 2009 (R, Vol .1, page 38. As stated above, the Respondent's attorney, David Heida let his case set idle for over nine (9) months with absolutely no activity. Then on November 6, 2009 at 12:54 P.M. Noon the

Gooding County Court filed a "NOTICE OF PROPOSED DISMISSAL" Pursuant to Rule 40(c) of the Idaho Rules Of Civil Procedure (I.R.C.P.) This is a matter of Court Record found on the CLERKS RECORD CD OF THE FILE (which has been sent to the Idaho Supreme Court which contains their entire file), ENTITLED Compact Disc (CD) # 37483. Page 14 of the CD of PDF Document # 20100526143349808 is this "NOTICE OF PROPOSED DISMISSAL" that Appellant will introduce as evidence, incorporate by reference, and make a part thereof of her Appellant's Response brief as "APPELLANT EXHIBIT A". Please note that this document, exactly as seen in the CLERK'S CD is EXACTLY THE DOCUMENT THIS APPELLANT RECEIVED FROM THE GOODING COUNTY MAGISTRATRE CLERKS OFFICE (WORD FOR WORD). Please notice that this document was signed by the Court Clerk, Rebecca Tanner, on November 6, 2009, Court date stamped 2009 Nov-6- PM12:54. Rebecca Tanner's signature on the "OFFICIAL CLERK'S RECORD ON APPEAL IS DIFFERENT FROM HER SIGNATURE ON THE FORGED DOCUMENT THAT Respondent produces in his Respondent's Brief, entitled APPENDIX 1, The bottom of the first letter in her name goes below the signature line, and across the top of the letters of "uty" in the word "Deputy" from the word Deputy Clerk stated below the signature line, and touches the top to the first letter" C" in the word Clerk, then every single letter of her name is different from the original document in the hands of the Idaho State supreme Court, entitled "CLERKS RECORD ON APPEAL", FROM THAT SIGNATURE ON THE FORGED DOCUMENT THAT THE Respondent has in his " BRIEF OF RESPONDNET, AS RESPONDENT'S APPENDIX 1".) Also, the court clerks signature under the court filing stamp (date and time) are very much different from each other on the original official document filed with the Idaho State supreme court, and the forged document that

attorney David Heida submitted in his brief as " Respondent's brief, APPENDIX 1". Only the original official notice was mailed to both appellant (appellant received her notice, and it is the original official document) and respondent's attorney as per the document, and states that:

"Pursuant to Rule 40 (c) of the Idaho Rules Of Civil Procedure, notice is hereby given that in the absence of a showing by written affidavit filed with this Court on or before Inactivity Appear Date at Inactivity Appear Time, setting forth specific facts justifying retention and setting forth a specific time table for actions necessary to make the case ready for trial setting and processing the specific matters left at issue therein, all pending matters in the following case will be dismissed for inactivity on or after Inactivity Appear Date. CASE NO. CV-2006-0000290, CASE TITLE Michael Alan Woods vs. Susan Anne Sanders."

The document was mailed to the Respondent's attorney and the Appellant on November 6, 2009. The document does not have stated anywhere on it, an " Inactivity Appearance Date at Inactivity Appearance Time", so obviously the 14 days Pursuant to Rule 40 (c) of the Idaho Rules Of Civil Procedure start running on the 6th day of November, when the notice was signed by the clerk and mailed. Looking at a November 2009 Calendar, , Fourteen days from the 6th of November, excluding weekends is November 25 at the latest for any party in this action to have filed with the Court.

Now, Kindly Look at the Document that Respondent's Attorney has in his "RESPONDENT'S BRIEF, ENTITLED: "APPENDIX 1". Respondent's document is the same " Notice Of Proposed Dismissal", but has the Notice re-written to INCLUDE INACTIVITY APPEARANCE DATE AND INACTIVITY APPEARANCE TIME TO READ " 11/27/2009, which is NOT IN THE COURT FILED DOCUMENT , COURT -STAMPED 2006 NOV-6 PM 12:54. It is also missing the mailing addresses of the Appellant and Respondent's attorney in the upper top right of the notice, that the original notice that is in the possession of the Idaho State Supreme Court as "CLERKS

RECORD ON APPEAL.” The Signature of the Gooding County Clerk, Rebecca Tanner is different on both documents. There can only be ONE OFFICIAL DOCUMENT, AND THAT IS THE ONE THAT THIS APPELLANT RECEIVED FROM THE COURT, WHICH IS THE EXACT ONE INCLUDED IN THE OFFICIAL “ CLERKS RECORD ON APPEAL” David Heida, with the Court’s involvement, created this false , tampered with record. This is a FORGED AND TAMPERED WITH DOCUMENT THAT GIVES THE RESPONDENT BEYOND THE 14 DAYS THAT I.R.C.P RULE 40 (C) ALLOWS.

This matter should never have gone to court, and been dismissed pursuant to Rule 40 (c) of I.R.C.P. as per the lower court’s original notice. There can only be ONE OFFICIAL NOTICE THAT CAME OUT OF GOODING COUNTY, AND WHAT RESPONDENT HAS SHOWN To This Idaho State Supreme Court, in his “Respondent’s Brief” is a tampered with and forged document that has his name and that of Gooding County Magistrate Court all over it. It is irrefutable proof of major wrong-doing on the part of Respondent’s attorney (David Heida) and that of the Gooding County Magistrate Court.

This Appellant has previously noticed the Idaho State Supreme Court that in the interim time that this matter gets to adjudication, that Gooding County and this attorney for the Respondent are capable of changing official documents, just as they tried to make the evidence of the “Habitual Domestic on Violence Abuse” on the part of the Respondent disappear by illegally having my (Appellant) entire pre-trial brief, affidavit, and evidence, as well as my discovery on the Respondent disappear.

False, tampered with, forged, Court, and Official documents results in this Appellant and my minor son being denied Due Process of Law, and denies my minor son his rightful parent. What

is being done is intentional, and can -not be covered up as a mistake. I know this to be a fact, for I was not “noticed” for many of the proceeding in this lower Court “Modification for custody” cause of action that the Respondent initiated; also I know personally of victims of this corruption by the Gooding County Magistrate Court, that have been injured beyond limits, by false forged “attorney liens”(filed in Gooding County Court) being placed on their land, false records resulting in the placement of children into the custody of parents , not their own, without the requisite voluntarily giving up custody by the parents, and having the State place the child up for adoption and/or foster care. I (and others willing and able to testify) am being damaged by Gooding County, by a common practice that is unlawful and in violation of written State law and due process law, and is contradictory to established written legal procedures and statutes. It takes the nature of certain local legal counsel having special access to the Court and its officers. The result is the corruption that has been described above. Said attorneys carry out the above mentioned acts for purely monetary gain/ self enrichment, that is unfair to all other litigants, and it is very clear to me that I and my minor son are victims of this corruption. Our relevant legal evidence was banned by a Court with a dismissed judge, and a Respondent legal counsel having a very unfair advantage due to his personal friendship and working knowledge of this dismissed for cause judge.

APPELLANTS RESPONSE TO THE ISSUES STATED BY THE RESPONDENT:

- a. Whether the magistrate court Abused its Digression in awarding Respondent sole Legal and physical Custody? The Appellant alleges that the judge was legally biased and banned from hearing this case as a matter of law. Judge Casey U. Robinson was

dismissed for extreme bias and prejudice to me, and dismissed for cause, and “voluntarily dismissed him” in 2008. He had no legal right (which goes to the issue of jurisdiction of the trial Court, to ever hear this matter) to sit on the bench and officiate this matter. I am not required by Idaho law, to attend and adjudicate any issue before a judge that has illegally taken my child from me without the least due process hearing, been legally dismissed by me (Rule 40(b) (2) MOTION BY THIS Appellant in 2008. The Respondent claims that “Appellant Waived Any Objection by Failing to Present Evidence at the Trial in This Matter (Respondent’s Brief, page 5). This is 100 % false, since the appellant did in fact file ALL OF my EVIDENCE along with my Pre-Trial Motion, Affidavit, and authorities, which were illegally stricken by this illegal Court acting in concert with the illegal acts of the Respondent’s attorney in even setting this matter for trial after the OFFICIAL COURT FILED “NOTICE OF PROPOSED DISMISSAL” I.R.C.P RULE 40 (c) timely ran out, on or before November, 25, 2009. Attorney David Heida did an egregious act that is so against the “Idaho Code of Ethics” that it should shock the conscience of this Idaho State Supreme Court and exemplify my notice that there is widespread corruption going on, and I and my son are two of the many victims. There are existing issues of endangerment to this appellant in making any appearance into Gooding County that have not been addressed. No litigant should fear for their lives and safety in making an appearance at Court, but that is what exists at all times in Gooding County, regarding this Appellant and her husband. The corruption is so bad, that it has affected me, my family, my son, and my husband. It has force my husband to fight for the rights of his

wife (Appellant) and his step-son, my biological son. My husband is a victim of this corruption, and has been illegally jailed by the false statements from this Respondent, and a corrupt Hagerman, Idaho Police Department, and Gooding County Jail.

The issues that this Appellant is raising on appeal, have been raised by her in the lower court illegal hearing in Gooding County Magistrate Court, on March 4, 2010 at the illegal "trial setting for Modification Of Custody" that was illegally held. In addition, the very same issues were raised by this Appellant in U.S. Federal District Court, Boise, Idaho, which uses Idaho State Substantive Law and U.S. Federal Procedural law, such as Civil Procedure and evidence. On January 20, 2009, and then in U.S. Federal District Court, (9th circuit), San Francisco, California on or around April of 2009. The Cases law of Wheeler v. Idaho Department of Health & Welfare, 147 Idaho 257, 266, 207 P.3d 988, 997 (2009) and Hoppe v. McDonald, 103 Idaho 33, 35, 644 P.2d 355, 357 (1982) are inapplicable, since. 1. The Appellant raised all the correct issues on appeal, but were illegally stricken by illegal acts of the dismissed for cause judge acting in concert with the Respondent's attorney that had no right to litigate this matter that should have been dismissed by the Court's own motion on November 6, 2009 (I.R. C.P. RULE 40 (c), discussed above regarding a forged and tampered official court document re. "NOTICE OF PROPOSED DISMISSAL", issued from the Gooding county Magistrate court. I am not required to show up to an illegal Court proceeding with a judge presiding that I DISMISSED FOR CAUSE, AND HE REFUSES TO STEP DOWN. This too is the law.

b. Whether the magistrate Court Properly Awarded Attorney Fees and Costs? (as stated as Respondent's second issue restated on appeal: This Appellant clearly states that a dismissed for cause judge that voluntarily dismisses himself, has no right to adjudicate any matter concerning Custody, Visitation, or protective order, or any issue regarding my person, and that of my biological minor son, as it relates to me and my legal right to custody. There is absolutely NOTHING FRIVOLOUS ABOUT MY LEGAL RIGHT TO HAVE MY BIOLOGICAL SON, TO RAISE AND NURTURE HIM, UNTIL HE REACHES THE AGE OF 18, AND BECOMES AN ADULT. You have no right to ever attack this "CONSTITUTIONALLY PROTECTED RIGHT OF THIS BIOLOGICAL PARENT". I am not raising any issues for the first time on appeal, since I properly raised all the relevant issues of Respondent's "Habitual Domestic Violence Abuse, and the Idaho State applicable law as it relates to "Habitual domestic violence Abuse, and what it means as to what patent is to get custody, at the trial court level. Appellant can- not help it that Appellant's attorney in conjunction with a corrupt Gooding counsel court had all her evidence stricken illegally. The Cases that Respondent cited: *Hoppe v. McDonald*, 103 Idaho 33, 35 644 P.2d.355, 357 (1982), *Crowley v. Critchfield*, 145 Idaho 509, 181 P.3d 435 (Idaho 2007), and *Wheeler v. Idaho Dept... of Health & Welfare*, 147 Idaho 257, 266, 207 P.3d 988, 997 (2009) are not relevant to this case because: 1. Appellant did not remain silent, and told the trial court that I will not appear before a dismissed for cause judge. 2. Submitted all my relevant evidence of Respondent's "habitual domestic Violence Abuse", drug possession, drug use, Respondent doing actual physical and emotional harm to my

minor son, at the trial level. 3. Appellant has no duty to “challenge any evidence put forth by the Respondent or cite anything in the record which contradicts the magistrate Court’s Findings”, when the magistrate judge had absolutely no legal right to preside over this case, and the case should have been dismissed pursuant to I.R.C.P. RULE 40 (c). You can not destroy all of my properly submitted legally relevant evidence (and the Idaho State Supreme court agrees that all evidence of Habitual domestic violence Abuse” is relevant and ad judicable), and then claim that appellant never submitted any evidence at the trial court level, and failed to appear at a subverted court hearing that is not allowed under the laws of Idaho to go forward with the subject matter before it, and also not have the requisite in personum jurisdiction over the appellant, for the judge has been properly dismissed by him.

- c. Appellant’s response to Respondents issue restated on appeal as to: Whether Idaho Rule of Civil Procedure 40 (c) was complied with? Appellant’s answer is a definite NO, it was not complied with. Appellant has shown that the Respondent’s attorney (David Heida) and the Gooding County Magistrate Court, have forged and tampered with said Gooding County Court’s official document “NOTICE OF PROPOSED DISMISSAL”, AND BY DOING SO, HE WAS ALLOWED TO GO FORWARD WITH LITIGATION THAT HE LET STAND STAGNANT FOR OVER SIX MONTHS, AND THE FULL DISADVANTAGE OF THIS APPELLANT, AND HER SON, RESULTING IN MAJOR VIOLATIONS OF DUE PROCESS LAW AND EQUAL PROTECTION LAWS. This appellant does not have the convenience to alter and tamper with documents, nor do I condone its practice, for it is as low as one can stoop, when

the life and well-being of my minor child is involved. You, David Heida, and Gooding County Court, are allowing my son to be in the hands of a very dangerous man not capable of any empathy toward my child, only a need to control his as the "little buddy" that he never had, instead of his biological son. If you have not figured out the nature of a psychopath and a sociopath, then you condemn my son to a World of terror that will, and is destroying him by every second. Under the OFFICIAL NOTICE THAT WAS SENT TO ALL PARTIES REGARDING (notice of proposed dismissal), the appellant and/or respondent had up until and including November 25, 2009 to go forward with this matter. It is an illegal action to go forward with the case, as the Respondent's attorney did, after tampering with, forging, and altering said document, and this Gooding county Court clerk as an official of the State of Idaho has an equal part in this subversion of justice and corruption, and illegal acts constitution "OBSTRUCTION OF JUSTICE".

- d. Respondent's Issue Restated on Appeal: Whether Proper Notice Was Given to Appellant of the Hearing? This Appellant alleges under oath and penalty of perjury that I did not receive many notices of many hearing dating between February 4, 2009, and the end of March of 2009 where you filed illogical motions to keep me away from my son in full, when I was physically almost 800 Miles away from Idaho. In addition, it is irrelevant whether I received notice of a Pre trial and trial setting notice, when the entire trial at issue is illegal due to it being officiated by a judge that I dismissed for prejudice and refused to step down even after I wrote the court and told them I will not adjudicate before a judge that I have dismissed for cause, has illegally removed both

legal and physical custody from me without any due process of law, and told me that I have no rights in his court. NOTICE OF AN ILLEGAL TRIAL AND HEARING DOES NOT MAKE THE HEARING LEGAL, AND NO ONE IN THEIR RIGHT MIND WOULD BE A PART OF AN ILLEGAL KANGAROO COURT PROCEEDING. Judge Casey U. Robinson is a very unstable judge that does not belong on the bench, period, and this is the feeling of most of the big law firms that have their offices in Twin Falls, Idaho. I have seen in the record of the clerk, many "certificates of filing notices that were physically rubber stamped in blue ink that I at no time ever received.

- e. Respondent's ISSUE RESTAED ON APPEAL: Whether Appellant's Frivolous Appeal Warrants Attorney Fees Pursuant to Idaho Appellate Rule 41, 11.2 and Idaho Code Section 12-121? Appellant is showing in the paragraphs that follow, that the Respondent, and his attorney are not due a single cent of attorney fees, and that the Respondent has perjured himself, in that on or about February 4, 2009, he purchased a house in Hagerman, Idaho and thus is not "destitute" as he plead in his motion for modification of custody, to pay his attorney. Obviously, this Respondent and his attorney are clueless that the five Honored Justices of this Great Idaho State Supreme Court have unanimously stated in writing that they are in agreement that this matter contains "many cognitive issues of Constitutional Law that need s to be adjudicated, and agreed unanimously to adjudicate said issues up before the Court. 1. BY calling this decision "frivolous", you put yourself and your client at risk, and have mocked the intent of the Idaho State Supreme Court that has already agreed to hear this matter on

Constitutional issues as to appellant's constitutional right to raise and nurture her son.

2. It is a constitutional right to have "due Process" and "equal Protection" in each and every Court proceeding in this Country. Said rights do not, and have never existed in Gooding county for this appellant, her minor son, and family, and will never exist before a dismissed judge that agreed to his bias and prejudice towards me, and stepped down from the bench in my case, up until the Respondent filed this modification for Custody on February 4, 2009 when he decided again that I have no rights, and got back on the bench in the above cited matter. The case of , *Nelson v. Nelson*, 144 Idaho 710, 170 P.3d 375 (2007) is inapplicable, for my motion up before the Honorable Idaho State Supreme Court is NOT FRIVOLOUS, FOR IT CONTAINS THE COGNIZABLE ISSUES OF Constitutional law that this great Court has agreed to hear, and also this great Court are the ones that put into law, that a " Habitual domestic Violence Abuser" under Idaho State law can -not under any circumstances have legal custody of a minor child, and the non violent and abusive legal parent will get full legal and physical custody. These are just a few of the actual issues that this Court has agreed upon. In addition, the Supreme Court has really got an eye opener that the Gooding County Judge, Casey U. Robinson, would be so blood as to abuse his judicial power, and revoke the rights of a litigant before him, either legally or illegally. I am not asking the Supreme court to "second guess the trial court by reweighing the evidence or has failed to show that the trial court incorrectly applied well established law. " My appeal and no part of it are frivolously brought, at any point. *Balderson v. Balderson*, 127 Idaho 48, 54, 896 P2d 956, 962 (1995), and

Nelson v. Nelson, 144 Idaho 717, 170 P.3d at 382, *Read v. Harvey*, 147 Idaho 364, 371, 209 P.3d 661,668, (2009), There is NO IMPROPER PURPOSE IN BRINGING MY APPEAL, *Read v. Harvey*, 147 Idaho 364, 371, 209 P.3d 661,668, (2009)

CONCLUSION:

This appellant is reliving the nightmare of having her ONLY child illegally taken away twice from me without any due process hearing, or due process of law. In allowing this to continue, is akin to allowing the over six years of rape, torture, Habitual domestic Violence” at the hands of the Respondent to continue. I am physically sick from this continuous abuse and corruption of the Gooding county Courts, and the Respondent, and his attorney seeking to make allegations that I am an unfit mother, with absolutely no proof. I and my son are being kept apart for over two years now, which is unconstitutional on its face. I did nothing wrong to deserve having my son removed from me. The Respondent has no legal right, pursuant to the evidence I HAVE UP BEFORE THE Idaho State Supreme Court to have any custody over my son. He is in fact one of the worst kinds of “Habitual Domestic Violence Abusers”.

PRAYER FOR RELIEF:

Appellant respectfully asks this honored Court to:

1. **Restore full legal and physical custody of my minor son on or before his fifth birthday on September 1, 2010. Restore all of my rights to my son, and allow me to raise my son in the state of my residence (proper legal citation exists in Appellant’s Brief). I have “once in a lifetime chance to see the Egyptian King Tut**

Exhibit in Denver that is running right now, and have purchased tickets for myself, my son, and my Husband. It would be a shame for my son to miss this once in a lifetime chance at seeing this international exhibit.

2. We have a major issue of widespread corruption up before this Honored Court involving major corruption of the Gooding County Magistrate and District Courts.

We have approximately up to a dozen victims that want to testify before this honored court. THE LEGAL ISSUE IS THAT THERE IS NO PROPER VENUE, OTHER THEN THIS Honored Court, to hear said testimony, and look into judicial corruption and obstruction of justice. So I put before this Honored Court a "FOR CAUSE MOTION", in that witnesses be allowed to testify at the same time, or a time set by this court, for these witnesses to give their evidence as to the corruption in Gooding County. They have no venue in this state, other than for this Court to hear their testimony. They have had false and tampered with document come out of the Gooding County Court that resulted in loss of land, incarceration in Idaho State Prison, children taken from their parents and placed with strangers, wrongful death of a child at the hands of Hagerman, Idaho Law enforcement, the loss of an entire household of personal property without any warrant for search and seizure, is only to scratch the surface.

3. That the Respondent and his attorney take absolutely nothing in this matter, and be awarded absolutely nothing. One can -not do illegal acts such as tamper with and forge official Court documents and be expected to take advantage of their

wrong-doings. I am not, nor have I been "harassing the Respondent" at any time that this litigation has been going on, and I have absolutely no communication with him, since it was the Respondent that placed all sorts of stay away and TRO orders against me while I am in Colorado, and Him in Idaho. His allegations that I am harassing him are in his mind, and do not exist at all, for I have not at all been in communication with the Respondent.

Respectfully Submitted Susan Dando Poller

Dated this fifth day of August Aug. 5, 2010

"APPELLANT'S EXHIBIT A"

THIS IS THE OFFICIAL DOCUMENT ENTITLED "NOTICE OF PROPOSED DISMISSAL" MADE PART OF THE OFFICIALO CLERK'S RECORD AS DOCUMENT No 20100526143349808 ON THE OFFICIAL CLERK'S RECORD ON APPEAL CD, LABELED # 37483

PLEASE COMPARE THIS OFFICIAL DOCUMENT TO THE DOCUMENT STATED IN THE PARAGRAPH BELOW:

TO SEE THE DOCUMENT THAT THE RESPONDENT, HIS ATTORNEY OF RECORD, AND GOODING COUNTY COURT/AND CLERK "FORGED AND TAMPERED WITH", PLEASE SEE "RESPONDENT'S BRIEF, MARKED AS "APPENDIX 1" IN RESPONDENT'S BRIEF

**FIFTH JUDICIAL DISTRICT COURT, STATE OF IDAHO
IN AND FOR THE COUNTY OF GOODING
624 MAIN STREET - P.O. BOX 477
GOODING, IDAHO 83330**

2009 NOV -6 PM 12:54

GOODING COUNTY CLERK

BY: R. Tanner
DEPUTY

Copy to: David Heida P.O. Box 32, Gooding, ID, 83330 (Plaintiff Attorney)
Copy to: Susan Anne Sanders 5146 Tabor Street, Wheat Ridge, CO, 80033;
FILE COPY

NOTICE OF PROPOSED DISMISSAL

Pursuant to Rule 40(c) of the Idaho Rules of Civil Procedure, notice is hereby given that in the absence of a showing, by written affidavit filed with this Court on or before InactivityAppearDate at InactivityAppearTime, setting forth specific facts justifying retention and setting forth a specific time table for actions necessary to make the case ready for trial setting and processing the specific matters left at issue therein, all pending matters in the following case will be dismissed for inactivity on or after InactivityAppearDate

CASE NO.	CASE TITLE
CV-2006-0000290	Michael Alan Woods vs. Susan Anne Sanders

Copies mailed, postage pre-paid to:

(☒) Counsel, as listed above.

Dated: November 6th, 2009
Denise M. Gill
Clerk Of The District Court

By:

Rebecca Tanner
Deputy Clerk

Notice Of Proposed Dismissal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of August, 2010, I served a true and correct copy of the foregoing Appellant's Reply Brief document upon the following person(s), in the manner indicated:

Michael Allan Woods _____ U.S. Mail, Postage Prepaid () CERTIFIED
151 E Salmon #1, _____ Overnight Courier
P.O. Box 383 _____ Hand Delivered
Hagerman, Idaho 83332 Via Facsimile
_____ CM/ECF Notice of Electronic Filing

Steven W. Kenyon, Clerk (xx) U.S. Mail, Postage Prepaid
Clerk Of The Idaho Supreme Court _____ Overnight Courier
P.O. Box 83720 _____ Hand Delivered
Boise, Idaho 83720-0101 (xx) Via Facsimil 1-208-334-2616
_____ CM/ECF Notice of Electronic Filing

Attorney for Respondent, David Heida, _____ VIA FAX 1-208-934-8873
(xx) FIRST CLASS U.S. MAIL

Capitol Law Group, PLLC
Attention: David Heida
301 Main Street
P. O. Box 323
Gooding, Idaho 83330

J. Pollak
8-5-2010